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New York

President:	Mr. Heller	(Mexico)
Members:	Austria	Mr. Bühler
	Bosnia and Herzegovina	Ms. Marinčić
	Brazil	Mr. Böhlke
	China	Ms. Guo Xiaomei
	France	Ms. Tétreau
	Gabon	Mrs. Onanga
	Japan	Mr. Wada
	Lebanon	Mr. Assaf
	Nigeria	Mr. Edokpa
	Russian Federation	Mr. Kuzmin
	Turkey	Mrs. Tansu-Seçkin
	Uganda	Mr. Muhumuza
	United Kingdom of Great Britain and Northern Ireland	Mr. Wilson
	United States of America	Ms. McCleod

Agenda

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Letter dated 18 June 2010 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General (S/2010/322)

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The meeting resumed at 3.15 p.m.

The President (*spoke in Spanish*): I now give the floor to the representative of Denmark.

Mr. Staur (Denmark): Allow me first of all to express our appreciation to Mexico for organizing this important event, building upon the first thematic debate on strengthening international law held under the Danish presidency of the Council back in 2006 (see S/PV.5474).

Allow me also to thank the Mexican presidency for its excellent concept note (S/2010/322) which addresses three important issues in building the rule of law both nationally and internationally.

My first point is the key message which we are re-emphasizing today, namely, the interlinkage between international law and the maintenance of peace and security. This is not an abstract notion, but a clear expression of the Council's conviction and intent — the conviction that a rules-based international community promotes peace and stability, and the intent of the Council to be guided by international law in all aspects of its work on conflict resolution.

Denmark believes that the case for the interrelationship between law and security is made every day. Together with many other States and organizations, we seek to do our part in promoting international law. In the Copenhagen Process on the Handling of Detainees, for instance, we seek to elaborate principles to address the challenges in regard to detention in armed conflict.

The second point of the concept note points to another central issue for the strengthening of international law — that international justice and the peaceful settlement of disputes are key to operationalizing the rule of law and to promoting peace and security. The International Court of Justice has real value in preventing the escalation of conflict, and increasingly so. The settlement of what may seem a trivial boundary issue may, in fact, have the effect of solving a territorial dispute which, left open, could devolve into serious tensions and conflict. Let me take this opportunity to also congratulate the Court on its election today of a new member, Ms. Xue Hanqin.

Other international courts are gaining prominence as well. The central issue of fighting impunity remains high on the agenda, and just a few weeks ago the first International Criminal Court (ICC) Review Conference was completed in Kampala. The Conference resoundingly reaffirmed the ICC's position as the universal permanent criminal court. The stocktaking exercise at the Kampala Conference focused, among other issues, on the question of complementarity — how to ensure that national jurisdictions will be able to deal with mass atrocities without the need for international courts. This is a prime example of how the rule of law, at both the national and international levels, can be integrated and become mutually reinforcing. The ICC is a court of last resort. No one wants to disempower national jurisdictions or to overburden the Court, and the joint effort, including of donor countries, in building national capacity in this area creates a win-win situation.

Significantly for this body, the Review Conference also adopted a consensus decision on the crime of aggression. This issue goes to the core of the relationship between the Security Council and the ICC, and Denmark wishes to express its appreciation for the constructive role played, including by Security Council members, in finding a compromise acceptable to all in Kampala.

With respect to the third issue — that of sanctions regimes — Denmark welcomes the important decisions taken by the Security Council to strengthen the legal framework for the sanctions regimes by enhancing the transparency and fairness of listing and de-listing procedures. We are especially pleased to see that the establishment of an Ombudsperson institution under the Al-Qaida and Taliban sanctions regime — an idea originally promoted by Denmark in 2005 — has now become a reality. We congratulate Ms. Kimberly Prost on her appointment to this position. However, more needs to be done.

Procedures for listing and de-listing need to be kept under constant review, and Denmark will continue to push for even more transparent and even fairer procedures within the Al-Qaida and Taliban sanctions regime, as well as other United Nations sanctions regimes. Denmark still firmly believes that only through respect for human rights can the sanctions regimes obtain the legitimacy necessary for their effectiveness.

The changing security environment and the rise of non-State actors in conflicts present the international community with new threats and challenges, of which

the piracy issue is but one. Denmark is honoured to be chairing the working group on legal issues under the Contact Group on Piracy off the Coast of Somalia. The seriousness with which the Council addresses these legal issues is another striking example of the rule of law as one element in a multi-pronged effort, which also includes political, development and security initiatives.

We very much welcome the work being done to integrate these elements into all aspects of the work of the United Nations. The Secretary-General's 2004 report on the rule of law (S/2004/616) and his 2009 report on the responsibility to protect (A/63/677) stand out for us as prime examples of how international law may contribute to meeting the high aspirations of this Organization. Denmark trusts and expects the Council to do its part in strengthening international law, and we will continue to give our full support to the work of the Council in this respect.

The President (*spoke in Spanish*): I give the floor to the representative of Switzerland.

Mr. Gürber (Switzerland) (*spoke in French*): Four years after the last debate on the subject before the Council today (see S/PV. 5474), the time has come to take stock of the situation. Protection, development and the implementation of the rule of law lie at the very heart of the mission of the United Nations. The Security Council is confronted daily with the challenge of reaffirming the primacy of the rule of law in its activities and working methods in order to strengthen the legitimacy of its decisions.

Although the subject of rule of law is very broad, I would like to highlight four particular aspects. First is the promotion of the rule of law in situations of conflict. Respect for international humanitarian law is a crucial aspect of the rule of law in conflict situations. The Security Council has a special role to play in this respect, and it should consistently insist on compliance with international humanitarian law in the specific situations with which it is seized. This is one of the main conclusions of the events organized by Switzerland in Geneva and New York to mark the sixtieth anniversary of the Geneva Conventions. Questions concerning the application and monitoring of international humanitarian law merit in-depth discussion. Switzerland is willing to commit itself to this course of action.

We welcome the latest resolution of the Security Council on the protection of civilians in armed conflict (resolution 1894 (2009), adopted in November 2009. We would like to see the protection of civilians adequately reflected in the mandates of United Nations peacekeeping operations.

Secondly, in regard to combating impunity and promoting the rule of law in post-conflict situations, societies emerging from prolonged periods of conflict inevitably assume a heavy legacy of massive human rights violations while in a very precarious state. Switzerland would like to see a process of strategic reflection take place on the lessons learned on the subject of combining the principles on countering impunity developed by Louis Joinet with strategies for strengthening the rule of law in societies in transition.

Thirdly, in the area of international justice and the peaceful settlement of disputes, Switzerland gives top priority to promoting and ensuring respect for international law, a true pillar of a just and peaceful international order. The International Court of Justice is at the heart of an international order based on the primacy of law. Switzerland encourages all States that have not already done so to recognize the jurisdiction of the Court as ipso facto compulsory.

The first Review Conference of the Rome Statute of the International Criminal Court has just ended. The inclusion in the Statute of the crime of aggression is a historic event in the development of international law. The fact that, 65 years after the Nuremberg and Tokyo trials, an individual can now be convicted by a permanent international court of the crime of aggression is without doubt a symbolic step towards a culture of peace.

Fourthly, in regard to the effectiveness and credibility of the sanctions system, Switzerland wishes to underscore the usefulness of the system of targeted sanctions. We believe that it must be preserved and consolidated and that the option of additional improvements should be considered. The Security Council has responded favourably to the requests of some countries, including Switzerland, to establish fairer procedures. In paragraph 20 of resolution 1904 (2009), the Council decided to establish the Office of the Ombudsperson with responsibility for receiving complaints from individuals affected by sanctions. Switzerland welcomes the progress made in the sanctions regime in this area. As a result, the ability to

take into account the rights of individuals at the international level has been improved and the legitimacy of the sanctions system strengthened. Switzerland will follow the implementation of the resolution closely.

Finally, we reaffirm our support for the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit.

The President (*spoke in Spanish*): I now give the floor to the representative of Finland.

Mr. Viinanen (Finland): At the outset, let me congratulate Mexico on taking up the topic of strengthening the rule of law in the maintenance of international peace and security. Enhancing the rule of law is a pertinent part of the work of the Security Council in several ways. Injustice and a weak rule of law can be consequences of conflict, but they are also often underlying reasons why conflicts persist or break out in the first place. Sustainable peace is built on a foundation of justice and the strong rule of law. We are therefore encouraged to see that the Security Council is discussing the Secretary-General's report of December 2006 (S/2006/980). This topic should remain high on the Council's agenda.

I would also like to thank Deputy Secretary-General Migiro and Under-Secretary-General O'Brien for their contributions to our debate today. Finland, of course, fully aligns itself with the statement of the European Union to be made shortly.

The concept paper (S/2010/322) you have provided, Mr. President, outlines a wide range of issues for discussion today. I would like to concentrate my remarks on two aspects that we feel are particularly central to fostering the rule of law: the relationship between justice and sustainable peace, and strengthening the rule of law at the national level. It has become almost a slogan to say that there is no sustainable peace without justice. I would like to break this argument into two parts and ask: What makes peace sustainable, and what do we mean by justice in the aftermath of the breakdown of the rule of law during a conflict?

In trying to bring a conflict to an end, the parties around the table are traditionally those who also have the means to destroy a peace agreement — the warring parties, those who carried out or commanded armed violence or financed it for their own benefit. Reaching a peace agreement is the first step towards ending the violence. The next steps towards a positive, sustainable peace cannot be taken without a holistic approach, and a much more inclusive group of people: women who sustained communities while men were fighting, political parties that did not engage in violence but have a legitimate interest in how the country should be run, those who had to flee, and those who were victims of violence. There must be inclusive ownership of a peace agreement and reconstruction plans if the peace is to stick and not unfold into a new conflict.

Justice can also take many different forms, but it is ultimately about inclusion. Impunity violates fundamental notions of justice, which is why it is important to see justice taking place in the form of a trial and sentences being handed down. In some cases, reparations may even be awarded.

Here, I would like to emphasize the importance of the International Criminal Court (ICC) in the evolution of international criminal justice. In Finland's view, the ICC and the Rome Statute system clearly demonstrate that impunity for the most serious crimes is no longer an acceptable option. We must also remember that the ICC is a court of last resort. The system created through the Rome Statute is based on complementarity. The States have primary responsibility to investigate and prosecute nationally the most serious crimes of international concern. That is why the system has been instrumental in strengthening the rule of law at the national level.

However, as Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia, stated recently to the Council (see S/PV.6342), in order to contribute to lasting peace, justice must be not only retributive, but also restorative. For victims of a conflict or long-lasting social exclusion, it can be more important to have the opportunity to tell their story on an equal footing with other members of society or to hear official recognition of wrongs committed. An essential element of restorative justice is that the voices of the victims and their communities are heard. We must not overlook traditional dispute resolution mechanisms.

Most important for the future of a society recovering from war, the ground rules that broke down during the war must be re-established: equal rights for all citizens, mechanisms for protecting and promoting

those rights and for settling different interests by peaceful means. This brings me to my second point, that strengthening the rule of law at the national level is the most effective way to bring about a more just society and to prevent a relapse into conflict.

Reform of the rule of law and security institutions is essential to rebuilding the people's trust in Government. This has to start even before a conflict ends. The rule of law, as narrowly defined, has to be seen as encompassing every link in the chain, from police to justice institutions to the enforcement of sentences. Finland has been a strong advocate of strengthening United Nations resources for supporting national rule of law authorities in the immediate aftermath of a conflict, as well as in the later stages of development.

We are pleased that the Standing Police Capacity of the Department of Peacekeeping Operations is now complemented with justice and corrections professionals who are ready to deploy at short notice. We also hope that the rule of law team foreseen in resolution 1888 (2009), which is aimed at helping national authorities to respond to acute situations of sexual violence, will shortly become operational.

Finland implements that comprehensive approach in its own crisis management and development activities. In Afghanistan, for example, Finland actively participates in the work of the European Union Police Mission and has been keen to ensure that gender aspects and wider human rights concerns are fully taken into account. In order to complement the work undertaken by the Mission, Finland has a bilateral programme aimed at strengthening cooperation between Afghan police and prosecutors.

As I noted in the beginning, the concept paper covered a wide range of issues. We would need many debates of this kind to discuss all of them in detail. For example, the use of targeted sanctions by the Security Council raises important questions concerning guarantees of due process and the rule of law. Finland welcomes the progress achieved in this area, in particular resolution 1904 (2009) and the recent appointment of Ms. Kimberly Prost as Ombudsperson of the Al-Qaida and Taliban Sanctions Committee. We call upon the Security Council to continue its work in that regard.

Finally, we have come a long way in strengthening the rule of law. The Security Council has been instrumental in the fight against impunity and has taken remarkable steps in ensuring that due process guarantees are also in place in its own functioning. We should, however, tirelessly look at new ways to integrate the wider notion of the rule of law into the Security Council's agenda and in its daily decisions in the maintenance of international peace and security.

In that regard, we welcome the follow-up report on the rule of law and transitional justice requested in the draft presidential statement to be adopted today. We hope that the report would also assess the impact that the Rule of Law Coordination and Resource Group has had.

The President (*spoke in Spanish*): I now give the floor to the representative of Italy.

Mr. Nesi (Italy): Today's debate represents an important occasion to discuss a few points that may be extremely relevant for the future development of United Nations action in the area of promoting and strengthening the rule of law in the maintenance of international peace and security, and for international law more broadly.

The concept paper prepared by the presidency (S/2010/322), for which Italy thanks the delegation of Mexico, is extremely solid and focused and invites us to concentrate on three main issues. As Italy associates itself with the statement that will be delivered by the representative of the European Union, I will limit myself to a few remarks concerning one of the three issues raised in the concept paper, namely, the promotion of the rule of law in conflict and post-conflict situations.

As far as this issue is concerned, Italy would like to emphasize the need for a concerted effort by all relevant actors. We must also acknowledge that not all situations necessarily require the same treatment, and attention must be focused on the specificities of each and every situation.

At the same time, we all agree on the importance of promoting and strengthening the rule of law in the area of security, especially in conflict and post-conflict situations. That is the reason that Italy has been so committed to assisting States afflicted by armed conflicts to build up their own rule-of-law capacities. In doing so, we believe that the international community should spare no effort in helping them to re-establish the rule of law in all of its aspects.

The United Nations and its specialized agencies have in the past played — and will continue to play in the future — a crucial role in this area. Their expertise, neutrality and recognized capacity to have an impact on rebuilding mutual trust, which is indeed a prerequisite for the rule of law, are unquestionable.

Italy therefore welcomes the important initiative of the Secretariat, which was recently approved by the General Assembly, to strengthen the Standing Police Capacity and to set up the new justice and corrections standing capacity at the United Nations Logistics Base in Brindisi. Those meaningful steps are aimed at guaranteeing the timely deployment, in the framework of peacekeeping operations, of qualified personnel specialized in rule-of-law activities. Through those means, the United Nations will be able to bridge the gap, from the initial stages of peacekeeping operations, between blue helmets and peacebuilders.

However, States and other international organizations also actively contribute to this end through the coordinated promotion of capacity building and initiatives aimed at strengthening the backbone of States' institutions. In that regard, we commend the role played by the European Union and the important work done by other international organizations such as the International Development Law Organization. Over the past decade, Italy has actively contributed to programmes concerning border controls, the improvement of legislative and judicial capacities, the drafting of criminal codes in post-conflict areas and the training of judicial and police personnel.

With regard to the latter, we would like to recall the activities of the Center of Excellence for Stability Police Units (COESPU). In four years, over 2,000 peacekeepers of different nationalities, many from Africa, have been hosted by COESPU for training through an integrated approach that encompasses the rule of law as an essential element in peacekeepers' mandates.

Another aspect of promoting the rule of law in conflict and post-conflict situations is that of not underestimating the issue of impunity. Over the past 20 years, the international community has resorted to a variety of instruments and institutional mechanisms to address this issue and to re-establish the rule of law in war-torn countries.

In that respect, Italy believes that the International Criminal Court (ICC) and the Rome Statute system are powerful instruments at the disposal of the international community to end impunity for the most heinous crimes of international concern. The relationship between the ICC and the Security Council is extremely important to reaffirming the rule of law and can help to reinforce the stability of international peace and security. The Council has already proven that a positive relationship with the Court can indeed be established, although some progress must be made in this area.

The Rome Statute system is much more than the mere setting up of a court of last resort. It lays down general principles to be respected by all States and individuals and must be implemented by the Security Council as part of its mandate to ensure the maintenance or restoration of peace and security. Today, the ICC has a pivotal role to play in this area.

The President (*spoke in Spanish*): I now give the floor to the Permanent Representative of Liechtenstein.

Mr. Wenaweser (Liechtenstein): Your delegation, Mr. President, is one of the champions of the promotion of the rule of law in the United Nations. We warmly welcome your initiative to hold an open debate on this topic as a good opportunity to take stock of past achievements and to look at the challenges ahead. We will do so on the basis of the comments we made at the debate in 2006 and in the light of the important developments that have taken place since.

Our principled approach to the issue at hand has not changed. We remain convinced that the best way for the Security Council to promote international law and the rule of law is to lead by example. We challenge the view — and, to some extent, the conventional wisdom — that regards the Council as a purely political body. Its authority is based on the world's supreme international treaty, the United Nations Charter. The Council is legally bound by the applicable rules of the Charter and of international law. Those rules leave it much room to take decisions based on political, legal and other considerations — but that room is not without limits. It is therefore both a legal necessity and a wise policy choice for the Council to respect and promote international law and the rule of law.

The Council must respect human rights, in particular when taking action with direct impact on the rights of individuals. In 2006, our statement focused strongly on the need to improve sanctions procedures.

We commend the Council for the tremendous progress that it has made in that regard by reforming the sanctions regime against the Taliban and Al-Qaida through the adoption of resolution 1904 (2009), and we welcome the appointment of Judge Kimberly Prost as the first Ombudsperson. The approach taken in that resolution may not be perfect and may not take relevant standards of due process to their ultimate consequence, but it is an expression of the political will within the Council to address the legitimate criticisms that had long been expressed against the old system. We hope that, on the basis of that experience, discussions on the scope of the Council's human rights obligations will reach new levels.

Furthermore, the Security Council must remain vigilant in ensuring that its work remains within the legal bounds and the spirit of its constitution, that is, the Charter. Council decisions that are to be implemented by Member States, in accordance with Article 25 of the Charter, must have a clear legal foundation. In particular, they must take into account the balance of power among the main organs. The Security Council should be particularly sensitive to the General Assembly's prerogatives as the prime legislative organ and to the need to enhance the perceived legitimacy of its decisions through greater inclusion and transparency. In that connection, we recall the many contributions made by the group of five small States in that respect.

Cooperation with courts and tribunals, in particular the International Criminal Court (ICC), remains an essential tool for the Security Council in the promotion of the rule of law. Since 2006, the Council has further acknowledged that fact by establishing the Special Tribunal for Lebanon and, more recently, by moving to address the problem of impunity for the universal crime of piracy. The past years have also seen a further consolidation and strengthening of the work of the International Criminal Court. In 2006, we stated that Council referrals to the ICC must be accompanied by sustained political support throughout all phases of the judicial proceedings. Today, the need for such follow-up is more obvious than ever, as evidenced by the Court's recent decision on the lack of cooperation in the situation in Darfur. The decision comes after five years of resource-intensive judicial work on that situation and requires a response from this Council.

A further relevant development was the historic decision taken by the States Parties to the ICC at the Review Conference in Kampala. By consensus, the Conference adopted a definition of the crime of aggression for the purpose of the Rome Statute, as well as the conditions under which, no earlier than 2017, the Court may exercise jurisdiction over that crime. Once formally activated, the Court's jurisdiction over the crime of aggression will give the Council a new policy option to address the most serious forms of the illegal use of force in contravention of the United Nations Charter. We are encouraged to see that the draft presidential statement that will be the outcome of this debate contains a reference to the International Criminal Court.

During the past four years, the Council's commitment to promoting both peace and justice in conflict and post-conflict situations has received significant new institutional support within the United Nations. The establishment of the Peacebuilding Commission and the Rule of Law Coordination and Resource Group and the strengthening of the Secretariat's mediation capacities have greatly contributed to a more holistic approach in that regard. The Security Council should continue to support efforts to strengthen domestic judicial capacities, in particular by devising appropriate mandates and structures for missions on the ground. The ICC Review Conference in Kampala strongly underlined the need to enhance the capacity of national jurisdictions to prosecute perpetrators of the most serious international crimes, pursuant to the principle of complementarity.

Nevertheless, the Council's commitment to pursuing both peace and justice has also been tested in recent years. Such developments show that the paradigm shift towards a positive relationship between peace and justice has yet to take full effect and requires sustained political support. Legally, permanent amnesties for genocide, crimes against humanity and war crimes are no longer viable. Effectively, no such promise of amnesty can be made. Both the Security Council and the Secretary-General, in their activities aimed at preventing and ending conflicts, should continue to strengthen the implementation of that important principle. In particular, that will require a stronger engagement of mediators and other conflict intermediaries with issues of justice.

The topic of today's debate is extremely rich and complex and can hardly be appropriately addressed in a

short statement. We hope that the Council's work on this agenda item will continue and that it will be taken up in a regular manner, preferably at least once a year, on the basis of a new report of the Secretary-General that could be submitted to both the Council and the General Assembly at its next session.

The President (*spoke in Spanish*): I now give the floor to the representative of Australia.

Mr. Quinlan (Australia): Australia very much welcomes this debate on the Council's role in promoting and strengthening the rule of law, and I would like to thank you, Mr. President, for your leadership in bringing it before us.

It is, of course, self-evident that the absence of the rule of law can be a driver of conflict. Peace is threatened by corruption, the abuse of power, discrimination and exclusion. Injustice obviously can drive people to take up arms. It is therefore important, indeed expected, that the Council periodically reflect on its performance in the promotion and strengthening of the rule of law as a central component of its mandate to prevent conflict and maintain peace and security.

The Security Council clearly has a range of powerful tools at its disposal to promote and strengthen the rule of law, from the imposition of sanctions to the mandating of United Nations missions with rule of law tasks and the use of judicial mechanisms to combat impunity. In utilizing those tools, it is again obvious that the Council itself must demonstrate respect for the rule of law. Consistent with the Secretary-General's exhortation that the United Nations as a whole must be the model of the rule of law if it is to be effective in promoting it, axiomatically the Council is most legitimate and most effective when it too, of course, submits itself to the rule of law.

There are three areas on which I would like to focus my remarks, guided by the very helpful concept note that Mexico has prepared (S/2010/322).

The first is the issue of targeted sanctions. Member States have a legal obligation under the Charter to accept and enforce sanction measures created by the Council, pursuant to Chapter VII. Australia takes that obligation very seriously. However, as we have seen in recent years, the legitimacy and effectiveness of such measures depend in large part on perceptions of procedural fairness.

As such, we welcome the major improvements that have progressively been introduced in that regard, first in relation to the Al-Qaida and Taliban sanctions regime through resolutions 1822 (2008) and 1904 (2009). In particular, we welcome the appointment of Judge Kimberly Prost of Canada as the Ombudsperson for the Al-Qaida and Taliban regime. The creation of that function, the ongoing review of the listings and the publication of narrative summaries are vital steps in improving the listing and de-listing procedures and the legitimacy and overall effectiveness of the sanctions measures.

Secondly, Security Council peacekeeping mandates continue to develop in recognition of the importance of the rule of law. Rule of law components are now a familiar aspect of peacekeeping operations, from the Democratic Republic of the Congo to Haiti, from Liberia to Timor Leste. Such rule of law tasks are an illustration of the early peacebuilding activities that are increasingly being undertaken within peacekeeping missions and must progressively become a much more decisive part of them. That is in recognition of the fact that a sustainable peace must be firmly grounded in respect for the rule of law.

The challenge, however, is of course to ensure that effective implementation of such mandated tasks actually happens on the ground. We understand that work is under way within the Secretariat, in the context of implementing the Secretary-General's 2009 report on peacebuilding in the immediate aftermath of conflict (S/2009/304), to clarify the roles and responsibilities of the various United Nations actors in the rule of law area. This is clearly an important step towards improving coherence and predictability in the delivery of such mandates, and we would very much encourage the very early completion of that work.

Finally, Australia is firmly committed to the need to end impunity for the most serious crimes, and is a strong supporter of the central role of the International Criminal Court in this regard. The relationship between the Court and the Council clearly has the potential to develop into a very powerful and mutually supportive alliance for the maintenance of international peace and security.

Where the Security Council refers a situation to the Court, it is beholden on the Council to use the tools at its disposal under Chapters VI, VII and VIII of the Charter to encourage, cajole and, if necessary, find a

way to compel Member States to cooperate with the Court. This is obviously very much a current challenge for the Council.

The President (*spoke in Spanish*): I now give the floor to the representative of the Republic of Korea.

Mr. Shin Boonam (Republic of Korea): At the outset, I should like to thank the President of the Security Council, Ambassador Claude Heller, for having organized this open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. The Security Council has held a number of thematic debates, most recently in June 2006, on the important issue of the rule of law and the maintenance of international peace and security. I believe that it is timely for the Security Council to return to this issue, not only in order to take stock of what has been achieved over the past four years, but also in order to explore the further steps that need to be taken in this area.

The Republic of Korea remains steadfast in its commitment to promoting the rule of law as an indispensable element of lasting peace and prosperity. The rule of law is indeed a critical component in our endeavours to build a durable system for peace and prosperity, especially in conflict and post-conflict societies.

Peace and prosperity cannot be secured if we fail to restore confidence in the rule of law among populations in conflict-torn societies. In this way, we can see that rule of law programmes are inextricably linked to the broader peacebuilding agenda. As such, I believe that the activities of the Peacebuilding Commission and Peacebuilding Fund are critical to addressing the rule of law, which has become a frequent focus of the Security Council.

The United Nations has been playing a central role in promoting the rule of law at the national and international levels. In the presidential statement (S/PRST/2006/28) issued after the last open debate on this issue in 2006 (see S/PV.5474), the Security Council expressed its support for the Secretary-General's proposal to establish a rule of law unit within the Secretariat. The Unit was established in the Executive Office of the Secretary-General in 2007 to support the Rule of Law Coordination and Resource Group, under the leadership of the Deputy Secretary-General. Furthermore, the Group adopted and implemented a joint strategic plan for the period 2009-2011 in order to improve the coordination and coherence of rule of law activities.

Last year, the Secretary-General presented his first annual report on United Nations efforts to strengthen engagement on the rule of law at the national and international levels (A/64/298). My Government welcomes all of these achievements of the United Nations and believes that the Security Council can further advance global efforts to strengthen the coordination and coherence of rule of law activities among various actors by supporting the Group and the Unit.

My Government is deeply committed to the peaceful settlement of disputes, as enshrined in Article 33 of the Charter of the United Nations, and we believe that the Security Council must continue its endeavours to help parties to resolve disputes in line with Chapter VI of the Charter.

My Government fully supports international efforts to end impunity and to bring to justice those responsible for genocide, war crimes and crimes against humanity. Those crimes should not go unpunished. We would like to take this opportunity to express our appreciation of the efforts made by the International Criminal Court (ICC) and other international criminal tribunals, especially the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR). My Government was pleased not only to observe the ICC's first trial in 2009 against a former Congolese rebel leader, but also to witness the momentous agreement on the crime of aggression at the Kampala Review Conference last month. We recognize the many successes of the ICTY and ICTR to date as significant contributions to the maintenance and restoration of international peace and security, and hope for smooth transitions to their residual mechanisms. All of these achievements ensure that justice and peace are complementary.

My Government wishes to reiterate its belief that the Security Council sanctions regimes are important tools for maintaining and restoring international peace and security. Indeed, major improvements have been made since 2006 in order to address several fundamental concerns over the regimes in connection with the rule of law. We would like the Security Council to continue its efforts to improve the present

sanctions regimes so that the actual implementation of sanctions can be more effective.

I believe that today's open debate on the promotion of rule of law will be very useful in helping the Security Council to better fulfil its primary responsibility.

The President (*spoke in Spanish*): I now give the floor to the representative of the Argentina.

Mr. Argüello (Argentina) (*spoke in Spanish*): I should like to express my gratitude to your delegation, Sir, for having convened this open debate and for the concept paper drawn up by the Mexican Mission to facilitate this debate (S/2010/322). My country attaches the greatest importance to strengthening the rule of law as a basic requirement for achieving peace and security, both within States and at the international level. The latter includes the actions of the Security Council.

The concept paper identifies three aspects of strengthening the rule of law around which it proposes an exercise to evaluate the situation since the open debate held by the Security Council in 2006: the promotion of the rule of law in conflict and post-conflict situations, international justice and the peaceful settlement of disputes, and the efficiency and credibility of sanctions regimes.

With regard to conflict and post-conflict situations, my country believes that, when establishing mandates, we must first address with due priority the capacity of conflict-affected societies to ensure the rule of law, in particular through the strengthening of national judicial and police systems. This objective is directly related to the work of the Security Council and has been increasingly integrated in the mandates approved by this body.

At the same time, with regard to situations of armed conflict, respect for international humanitarian law is essential to ensuring the protection of civilians by the parties to the conflict and by United Nations forces. Parties to a conflict are subject to the basic rule, established long before the founding of this Organization, that civilians must be protected from the effects of armed conflict. My country is firmly of the view that provisions for the protection of civilians must be included in the mandates of United Nations peacekeeping operations.

At the same time, it is of vital importance to ensure that the perpetrators of serious human rights violations face justice. Fortunately, the international community has overcome the justice-versus-peace paradigm in conflict and post-conflict situations, by which political agreements used to set aside the pursuit of justice in favour of de jure or de facto amnesties. The current paradigm is one in which peace and justice are not only compatible but also complementary objectives.

In that regard, I would like to underscore the conclusions of the exercise on stocktaking of international criminal justice, which was undertaken in the framework of the Review Conference of the Rome Statute of the International Criminal Court that took place in Kampala, Uganda, less than a month ago. The main conclusion of the segment on peace and justice was that even though in practice tensions arise between peace and justice, there is now a positive relationship between them. That is to say, peace efforts are not feasible without duly incorporating the need for ensuring justice in cases of human rights violations.

With regard to international justice and the peaceful settlement of disputes, I would like to emphasize that this is an issue where it is essential that the role of the General Assembly also be taken into account. Every year, the General Assembly addresses the rule of law within the framework of the Sixth Committee. At its sixty-fourth session, the General Assembly considered an agenda item entitled "The rule of law at the national and international levels", which is an issue that is directly related to international justice and the peaceful settlement of disputes. The peaceful settlement of disputes is one of the pillars of today's international community. In the outline provided by the Charter, the International Court of Justice plays a central role — inherited from the Permanent Court of International Justice — as the principal judicial organ of the United Nations.

But in the settlement of international disputes there are also other methods, to which the Charter also refers. In that regard, Argentina believes it relevant to highlight the need for parties to a dispute to comply in good faith with calls for negotiation made with a view to peaceful resolution by the organs of the Organization, including, of course, by the General Assembly. Among the means at the disposal of the Organization, we must also highlight the good offices role that the organs of the Organization can request —

and in fact do recommend — the Secretary-General to undertake. The political will and good faith of the parties to a dispute are also required for the successful fulfilment of a good-offices mission of the Secretary-General, and therefore also for success in resolving a dispute.

In addition to the jurisdiction of the International Court of Justice in contentious cases, I would also like to highlight the Court's consultative jurisdiction, as done by the paper prepared by the delegation of Mexico, which can be activated by the organs of the United Nations.

In addition to the Court, we should also highlight the role of other tribunals specialized in specific fields of international law. Among those, my country would like to point to the International Tribunal for the Law of the Sea, which is a judicial body established by the United Nations Convention on the Law of the Sea as part of its specific regime for the settlement of controversies. My country is one of the 29 parties to the Convention that has accepted the jurisdiction of the Tribunal. I would also like to highlight the fundamental role of the International Law Commission in the codification and continuing development of international law.

With regard to combating impunity, the international community is experiencing remarkable evolution in international criminal justice. That process, which has its roots in Nuremberg and Tokyo, moved forward with the establishment of the ad hoc Tribunals for Rwanda and the Former Yugoslavia, which reflected the Security Council's clear recognition of the close link between peace and justice. Since the adoption of the Rome Statute of the International Criminal Court, in 1998, the fight against impunity has clearly evolved towards a permanent system of international criminal justice centred on the Court.

The Court established by the Rome Statute is one of the most meaningful achievements of the multilateral system. In 1998, it was not expected that the Statute would enter into force so soon or, much less, that the Court would be playing such a central role in the fight against impunity little more than 10 years following the adoption of the Statute. To date, there are 111 States parties to the Rome Statute, with two trials before the Court and a third to begin soon. Five investigations are currently under way, three of which were referred to the Court by States parties. One situation was referred to the Court by the Security Council, in 2005.

In addition, the recently concluded Rome Statute Review Conference succeeded in fulfilling a mandate pending since 1998, namely, adopting a definition of the crime of aggression and the conditions under which the Court shall exercise its jurisdiction with regard to that crime. With regard to the exercise of jurisdiction, a formula was developed that respects both the role of the Security Council and the independence of the Court, in a delicate balance that made consensus possible. That jurisdiction will have to be activated by States parties in 2017.

I would like to take this opportunity to call on States that have not yet signed or ratified the Rome Statute to ratify or to accede to it as soon as possible, in order to ensure the complete universality of the International Criminal Court, and therefore of the international criminal justice system established by the Rome Statute. We would also like to reiterate our call to the Government of the Sudan to cooperate with the International Criminal Court. We encourage the Council to continue to cooperate with the Court with a view to ending impunity.

The issue of the efficiency and credibility of sanctions regimes has been dealt with not only by the Security Council but also by the Special Committee on the Charter of the United Nations and through the work of the Organization in the framework of the General Assembly. Continued efforts for ensuring respect for the rule of law, in particular human rights law, are also needed with regard to the application of sanctions in the fight against terrorism.

To that end, it is of paramount importance that sanctions are clear, precise and specifically directed, and that due process is ensured for the credibility of sanctions and for the legitimacy of their application in domestic law. In that regard, my country has already highlighted in the Council the positive step represented by the adoption of resolution 1904 (2009), last December. The establishment of an Ombudsperson for the Committee established pursuant to resolution 1267 (1999) is a step in the right direction in ensuring that sanctions regimes conform to the minimum requirements of due process.

International peace and security are essential for the international community. Legitimacy, democracy

and justice are the values that must guide the action of the Security Council in addressing conflict and post-conflict situations, so as to build and consolidate lasting peace.

The President (*spoke in Spanish*): I now give the floor to the representative of Norway.

Ms. Juul (Norway): An international order based on the rule of law is a prerequisite for peaceful coexistence and cooperation among States. Norway therefore warmly welcomes the initiative by the Mexican presidency to organize today's open debate. We also thank the presidency for preparing the discussion paper (S/2010/322). The Security Council indeed has a particular role to play in promoting international law, both with regard to its own adherence to the rule of law in its daily work and to expanding the notion of adherence to the rule of law in general.

The many violations of international humanitarian law over the past few years are of grave concern to us. The lack of protection for civilians in conflict, the increased targeting of civilians and the use of sexual violence as a method of warfare are just a few examples of the serious challenges we face. In order to provide adequate protection for civilians affected by armed conflicts, it is necessary to have an open and frank discussion on the practical application of international humanitarian law. This discussion should be based on the experience in the field in recent conflicts. It is Norway's firm belief that allegations of serious violations of international humanitarian law should always be investigated in a thorough and independent manner to determine whether there have been any grave breaches.

Norway welcomes the Security Council's achievements in developing an increasingly strong protection framework for children in armed conflict, in particular through its latest resolution on this issue, namely, resolution 1882 (2009). Such a framework is key to the protection of civilians and to the promotion and strengthening of the rule of law in conflict situations. Still, the lack of decisive action against persistent perpetrators and of accountability measures to fight impunity continue to limit the effectiveness of the work of the United Nations in this area.

Norway is encouraged by the Security Council statement in which it expressed its readiness to impose targeted measures against persistent violators of international law who recruit, sexually abuse, maim or kill children in war. We support the proposals of the Secretary-General to include child recruitment and the use of children in war as part of the mandates of all sanctions committees, to improve the flow of information between the Working Group on Children and Armed Conflict and the sanctions committees, and to invite the Special Representative of the Secretary-General on Children and Armed Conflict to regularly brief sanctions committees.

Furthermore, we would like to acknowledge the crucial contributions of international criminal tribunals and courts in upholding justice and the rule of law. Through these institutions, both the United Nations and the international community have proven their ability to rise to the occasion and prevent impunity in the face of mass atrocities. In that regard, we would like to draw attention to the International Criminal Court and the outstanding arrest warrants it has issued in connection with the Sudan. We encourage the Security Council to follow up on the recommendations by the Prosecutor in order to ensure compliance with resolution 1593 (2005).

International criminal tribunals, courts and independent investigations do not substitute, but rather complement, the building of well-functioning domestic justice systems. To prevent a fragile peace from relapsing into conflict, it is important to build or reconstruct the security sector in the aftermath of conflict. Therefore, the Security Council rightly emphasizes rule of law mandates in country situations on its agenda, as do the Peacebuilding Commission and the Peacebuilding Fund in their engagement in post-conflict societies.

Impunity is particularly prevalent when women's rights are violated in armed conflicts. During conflicts and in their aftermath, we must ask the crucial questions: Security for whom? And justice for whom? Abuses against women tend to continue unchecked when they are not properly dealt with during peace negotiations and in post-conflict situations. We must continue to enhance women's opportunities to participate actively in peace processes and in peacebuilding.

To enable the United Nations to support the re-establishment of national rule of law and accountable and effective security institutions, Norway strongly supports the Office of Rule of Law and Security

Institutions in the Department of Peacekeeping Operations and the Global Rule of Law Programme at the United Nations Development Programme.

We see an obvious need for effective mechanisms for peaceful conflict resolution between States. The International Court of Justice (ICJ) provides an underused opportunity in that regard. Norway has accepted the compulsory jurisdiction of the Court. We invite all States that have not yet done so to do the same. It is encouraging that the ICJ is now considering a larger number of cases, on a broad range of aspects of public international law. The Security Council should strive to help the parties to a dispute to refer their disputes to the ICJ so that this trend towards greater utilization of the Court continues.

It is vital that the Security Council itself set an example by adhering to its own legal foundations — the Charter and international law. In particular, it should respect and promote the rights of individuals and basic guarantees of due process. To that end, Norway welcomes the progress achieved in enhancing the transparency and fairness of listing and de-listing procedures of the Committee established pursuant to resolution 1267 (1999). Resolution 1822 (2008) introduced the obligation to review all the names on the list and to add narrative summaries of reasons for their listing by the end of this month. In addition, resolution 1904 (2009) established the Office of the Ombudsperson.

While we welcome that progress, it is of paramount importance that the procedures for listing and de-listing be kept under constant review and that the Council remain open to further procedural improvements in the regime, such as the establishment of an independent review panel. First and foremost, we now look forward to the newly appointed Ombudsperson taking up her functions. We will follow her work with great interest.

The President (*spoke in Spanish*): I now give the floor to the Permanent Representative of Guatemala.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): First of all, Mr. President, allow me to thank you and your country for organizing this open thematic debate, as well as for the concept paper circulated with your letter dated 18 June 2010 (S/2010/322).

We welcome the continued willingness of the Council to address the promotion and strengthening of the rule of law in the maintenance of international peace and security. In spite of new mechanisms at the United Nations and the wealth of experience and lessons learned built up in recent years, the rule of law continues to be at risk from impunity and evolving threats and challenges. Our interest in participating in today's debate is not only rooted in our commitment to the universal values of the United Nations Charter, but also stems from the current state of affairs in Guatemala.

The fight against impunity, the strengthening of the rule of law and the protection and full respect for human rights, both within our country and at the international level, are central to our Government's policies. We acknowledge that there remain serious weaknesses in all of those aspects within our own society, which are in part due to the legacy of an internal conflict that lasted four decades. The significant progress achieved in implementing the commitments flowing from our peace agreements has been partially compromised by a culture of impunity that is made worse by an expansion in the activities of organized crime cartels.

In that connection, we have taken very concrete steps to address shortfalls and strengthen our own institutional democracy. The International Commission against Impunity in Guatemala (CICIG), which has been in operation since 2007, is the most important tool in that regard. We have benefited enormously from that independent body, which was the outcome of an agreement between the Government and the United Nations and which enjoys the firm support of both the Government and civil society. We are now beginning to see the first fruits of its efforts to combat impunity. In that connection, allow me to highlight some of the important aspects of the work of the Commission.

First, we cannot overstate the significance of new approaches and best practices for enhanced capacity building in the justice and rule of law sectors. This innovative mechanism is based on a treaty and operates on the ground with mixed functions and through a partnership with the Office of the Public Prosecutor in prosecuting high-impact cases. What the launching of CICIG has revealed is that the way forward is not to build international substitutes for national structures, but to help build domestic capacities.

Secondly, CICIG operates within a very precarious environment that is marked by extreme

poverty and violence. Peace and stability will only prevail if the population understands that highly politically charged issues can be resolved fairly and legitimately. That requires credible institutions and verification processes to ensure minimum standards of integrity in public services. Verification processes in Guatemala now play a crucial role in transforming institutions that during the conflict were involved in serious abuses against public human rights agencies but are now beginning to enjoy public confidence.

Thirdly, promoting and strengthening the rule of law requires a measure of stability, genuine governmental authority and political will. But that is only possible within properly resourced and audited public institutions. In that regard, ending impunity first requires a duty to respect as well as to guarantee the rule of law.

In considering the subject of this debate, we note that the rule of law has now been mainstreamed into the core activities of the United Nations. Furthermore, it has become institutionalized in the latest structure, namely, the Rule of Law Coordination and Resource Group, which is backed by the Rule of Law Unit. Although that allows for better coordination and coherence within the United Nations system, we must also respect the purview and mandate of each player in the system responsible for rule-of-law activities. Neither the Group nor the Unit has addressed the need to avoid duplication and overlapping of functions.

In conclusion, I would like to reiterate that combating impunity is difficult and that strengthening the rule of law requires the commitment of all concerned. It is for that reason that we value international cooperation and alliances with relevant actors of the United Nations and the donor community to promote and strengthen the rule of law.

The President (*spoke in Spanish*): I now give the floor to the representative of Peru.

Mr. Rodríguez (Peru) (*spoke in Spanish*): First of all, I would like to commend the timely initiative of the Mexican presidency to convene an open debate of the Security Council on justice and the rule of law.

Four years have passed since the last debate was held on this important topic. In the light of developments surrounding various interlinked issues in that regard, it is necessary to take stock in order to support and focus the work of various United Nations bodies. Strengthening the rule of law is a priority for the United Nations and its Member States. The 2005 World Summit Outcome (*see General Assembly resolution 60/1*) recognized the need for universal adherence to the rule of law and its enforcement at the national and international levels as an indispensable basis for a more peaceful, prosperous and just world.

As we can see from the topics proposed in the concept paper (S/2010/322), the work to be done in the area of the rule of law is cross-cutting in nature, both when it comes to the issues involved and as it pertains to developing that work at the institutional level in the United Nations. With regard to the latter, there is a need for the greatest coordination possible among the various bodies that make up the Rule of Law Coordination and Resource Group.

With regard to the promotion of the rule of law in conflict and post-conflict situations, it should be emphasized that, in accordance with Article 24 of the Charter of the United Nations, the Security Council has the primary, but not the sole, responsibility for the maintenance of international peace and security. Peru believes that efforts should be focused on prevention in order to avoid conflict situations. To that end, we should continue to promote the implementation of the concept of the responsibility to protect, especially when it comes to the first two pillars set out in the report of the Secretary-General contained in document A/63/677.

Peru is a member of the Peacebuilding Commission, the body mandated to advise the Security Council and the General Assembly on peacebuilding in post-conflict States. Strengthening the rule of law is crucial to the work of the Commission — especially in the areas of security, governance, development and justice — so as to put in place a successful process based on national ownership. In that regard, efforts aimed at strengthening the rule of law should be a substantive part of peacebuilding strategies.

When it comes to international justice and the peaceful settlement of disputes, Article 1 of the United Nations Charter establishes that States should resolve their disputes through peaceful means and in conformity with the principles of justice and international law. As the sole international universal body with general jurisdiction, the International Court of Justice (ICJ) plays an essential role in that regard.

Thus, with very good sense, the Manila Declaration on the Peaceful Settlement of International Disputes, which was adopted by consensus by the General Assembly in resolution 37/10, established that international legal disputes should, as a general rule, be referred by the parties to the International Court of Justice and that doing so should not be considered an unfriendly act between States.

It should be highlighted that, in accordance with Article 36, paragraph 2, of the Court's Statute, Peru has unconditionally recognized the jurisdiction of the ICJ. We therefore call upon those States that have not yet done so to adopt a decision to recognize the Court's jurisdiction.

In the context of international criminal law, the international tribunals established by the Security Council have made it possible for those responsible for the most heinous crimes against humanity to be tried. Since some of those tribunals will soon conclude their activities, it should be recognized that their findings, practices and archives are a valuable contribution to the development of the rule of law and, ultimately, to international peace and justice.

Likewise, the International Criminal Court (ICC) plays an essential role in preventing impunity in cases of genocide, war crimes and crimes against humanity. As a result of the ICC Review Conference in Kampala, we have succeeded in establishing a definition of the crime of aggression. The relationship between the United Nations, and especially the Security Council, and the Court is essential to the work that the ICC must carry out. We must therefore seek to ensure that this relationship is geared both towards strengthening the Court's independence and towards promoting the integrity of the Rome Statute.

On the national level, States have the primary responsibility to ensure the establishment of independent legal systems that will make genuine access to justice possible. In that regard, there is a need to adopt measures to implement obligations under international law, not only with regard to substantive aspects but also in the areas of cooperation and legal assistance, so as to effectively try those responsible for crimes and strengthen a culture that can prevent impunity.

With regard to the issue of sanctions regimes and combating terrorism, the adoption of resolution 1904 (2009) is an important step forward towards greater legitimacy. In addition, the appointment of Kimberly Prost as Ombudsperson, which we welcome, will provide us with a mechanism for greater transparency in reviewing entries on the consolidated lists. We hope that the consolidated list review process can be concluded as soon as possible. However, we should bear in mind that there are still major steps to be taken, such as the adoption of guidelines for the effective implementation of the resolution.

In that regard, Peru would like to reiterate that sanctions regimes cannot be disassociated from obligations to protect human rights, as indicated in General Assembly resolution 64/118 and resolution 64/168, which Peru co-sponsored.

In order to disseminate the work of the Rule of Law Unit more broadly and effectively, especially among workers in the field, its website should also be available in Spanish. Similarly, its publications should be accessible in the United Nations official languages, in accordance with the provisions of General Assembly resolution 64/96 A-B on questions relating to information.

Strengthening the rule of law is a task that falls to all Members of the United Nations, and for which we need the cooperation and financial assistance not only of those States able to provide it, but also of international organizations and civil society. Likewise, efforts to strengthen the rule of law made at the regional and subregional level should be coordinated, since this is the only way we can ensure that such efforts are not duplicated and that resources are used as effectively as possible.

In conclusion, Peru reiterates its commitment to actions aimed at strengthening the rule of law at both the national and international levels, and expresses its desire to contribute actively to the work in this area conducted by the various bodies of the United Nations.

The President (*spoke in Spanish*): I now give the floor to the representative of South Africa.

Mr. Tladi (South Africa): My delegation wishes to thank you, Mr. President, for the opportunity to participate in this debate and for your concept paper (S/2010/322). We move from the premise, as does your concept note, that the old debate about whether the Security Council functions above international law is truly passé and that, notwithstanding the primary role of the Security Council in the maintenance of

international peace and security, the Security Council operates within the framework of international law in all its functions.

An important element of preventing conflict must be to deal with post-conflict situations in a comprehensive manner to facilitate nation-building and the avoidance of the recurrence of violence. For this reason, my delegation agrees with the assertion that peacebuilding and post-conflict capacity-building are key components of the maintenance of international peace and security. It is this belief that led us to lament, in our statement of 22 April in the debate on the implementation of the presidential note contained in document S/2006/507, the perception that the Security Council's function is only to mandate peacekeeping operations. In that statement, we reminded the Council that

> "Peacemaking is not always merely equal to the deployment of troops to conflict situations. It is a continuum from mediation to conflict prevention to peacekeeping, where required, and to peacebuilding and peace consolidation and sustainable development" (*S/PV.6300, p. 34*).

In this context, we welcome the initiatives taken by the Rule of Law of Unit in the Executive Office of the Secretary-General to promote a more coherent approach to rule of law activities in societies emerging from conflict. We await with anticipation the outcome of these endeavours and hope that those outcomes will contribute meaningfully to the work of the Council and the Peacebuilding Commission.

The concept note before us observes correctly that targeted sanctions still raise fundamental questions in connection with the rule of law and basic principles of due process. The note also acknowledges that major improvements have been recorded through, for example, the adoption by the Security Council of resolution 1822 (2008). We also welcome the adoption of resolution 1904 (2009), which created the office of the Ombudsperson, and annex II of that resolution, which lays out the Ombudsperson's functions. While we agree that these are important steps in the promotion of due process principles, we hope that the Office of the Ombudsperson shall be further strengthened to ensure a greater protective mandate. We further encourage the Council to take account the recommendation of the document entitled "Introduction and implementation of sanctions imposed by the United Nations", annexed to General Assembly resolution 64/115, when imposing and implementing sanctions.

Inherent in the building blocks of the United Nations is the inextricable link between the promotion of justice and the attainment of a peaceful world. This link is reflected in, among other provisions, Articles 1, 2 and 33 of the United Nations Charter. The establishment of the International Court of Justice as a principal organ of the United Nations also reflects recognition of that link. The role of the Security Council in promoting the rule of law by resorting to peaceful judicial settlement is manifold. The Security Council could, for example, recommend to parties that disputes be referred to the International Court of Justice in the spirit of Article 36 of the Charter. Ultimately, however, whether a particular dispute is referred to the Court will depend on the consent of the particular States in accordance with article 36 of its Statute.

A second possible role that the Security Council can play in the promotion of the rule of law through the use of the International Court of Justice is through regular recourse to advisory opinions from the Court. As we have noted on previous occasions, we are pleased that the General Assembly has not been shy about requesting advisory opinions, and we encourage the Security Council to follow suit when faced with questions of legal complexity. In this regard, we remind the Council of the important consequences of its decision to request an advisory opinion from the International Court of Justice, which resulted in the now famous 1971 Namibia opinion.

The role of the Security Council in the area of peaceful settlement of dispute mechanisms is not limited to requests for advisory opinions or to encouraging parties to a dispute to refer it for adjudication. The Council also has an important role in the enforcement of decisions of the Court, in accordance with paragraph 2 of Article 94 of the United Nations Charter.

We believe that this responsibility applies equally, though differently, in respect to the implementation of advisory opinions. While advisory opinions of the Court are not binding in and of themselves, in the sense of Article 94 of the Charter, they are not without legal consequence, and failure to comply with them indicates a violation of whatever

rule the Court may have been deemed to be at issue in that opinion. In the interests of promoting the rule of law, we therefore call upon the Security Council to take appropriate action to ensure the implementation of the advisory opinion on the legal consequences of the construction of a wall in the occupied Palestinian territory and the Western Sahara opinion.

The concept note correctly observes that an essential element in the Security Council's role in rule of law issues relates to the efforts to end impunity and the Council's complex relationship with international tribunals and the International Criminal Court (ICC). Time constraints unfortunately will not permit a comprehensive discussion, and so I limit our observations here to the ICC, and in particular to events surrounding the Review Conference held in Kampala. The first important point to note was the adoption of the Kampala Declaration, under the facilitation of your delegation, Mr. President, which reaffirms the nexus between peace and justice.

On the main issue under consideration in Kampala — the adoption of the definition and trigger mechanisms for the crime of aggression — the role of the Council became the single greatest sticking point. It is unnecessary to rehash the debate on whether the Council's mandate in the maintenance of international peace and security is primary or exclusive, because surely we all know that it is the former. Most of us in Kampala expressed serious concern about leaving the determination of the crime of aggression exclusively in the hands of the Security Council. While very convincing legal arguments were advanced for this reluctance, it was also clear that the underlying political reasons emanated from the perception, real or imagined, that the Security Council as it is currently constituted could not faithfully fulfil this mandate and would, for political reasons unrelated to the maintenance of peace and security, prevent the ICC from exercising jurisdiction over this crime.

It seems to us that it is those same suspicions that are behind many of the debates on the role of the Security Council in the referral and deferral of situations before the ICC. Whether or not these underlying perceptions are founded on reality, they do serve to illustrate the very urgent need to reform to the Security Council. It is our view that, to rid itself of this suspicion, the Council first and foremost needs to become more representative and requires expansion in both categories of its membership.

The President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Pedro Serrano, acting head of the delegation of the European Union.

Mr. Serrano: I would first like to thank the Mexican presidency of the Security Council for organizing today's open debate and for preparing a very stimulating discussion paper (S/2010/322). I also offer many thanks for inviting the European Union (EU) to participate in the debate. The candidate countries Turkey, Croatia and the Former Yugoslav Republic of Macedonia; the countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia; the European Free Trade Association country Liechtenstein, a member of the European Economic Area; as well as Ukraine and Georgia, align themselves with this declaration. I will read an abridged version of the EU statement, which is being circulated.

The European Union reaffirms its deep commitment to an international order based on international law, including human rights law, with the United Nations at its core. In our view, it is imperative that we all join our efforts to strengthen the rule of law at the national, international and institutional levels.

The rule of law should be mainstreamed throughout all peacebuilding and State-building activities, in particular as regards transitional justice and the integration of justice into the external support to security sector reform. In this regard, the European Union welcomes the establishment of the Rule of Law Coordination and Resource Group and calls for greater efforts by the Group and the Rule of Law Unit to ensure a coordinated and coherent response by the United Nations system in the field of the rule of law. The European Union also supports the idea of an update report by the Secretary-General taking stock of the implementation of the recommendations contained in his 2004 report (S/2004/616) and making proposals for further actions.

Reforming the security sector in post-conflict environments is crucial to the consolidation of peace and to promoting poverty reduction. Only where legitimate State authority is expanded through the rule of law and good governance can countries be prevented from relapsing into conflict and losing development achievements. The rule of law should not be seen as a principle exclusive to the justice or security sectors,

but as crucial in all areas where public authority is being exercised, in particular in public administration.

Cooperation between the United Nations and other international actors such as the Organization for Security and Cooperation in Europe or the Council of Europe is essential for the effective promotion of the rule of law, particularly in post-conflict situations. The European Union has also gradually focused on the re-establishment of the rule of law in post-conflict situations. More than 4,000 civilian experts are currently deployed in nine European Union missions, of which 1,700 alone are in Kosovo, and they are working together with their United Nations counterparts.

Support to governance in its different aspects is also at the core of EU development cooperation, including with African, Caribbean and Pacific States.

Finally, the accession process, in the framework of the European Union enlargement policy, is also a powerful tool to drive reforms in these areas. The rule of law is part of the so-called Copenhagen political criteria for EU membership, and issues such as an independent and impartial judiciary and the effective fight against corruption and organized crime largely condition progress towards accession.

Non-violent conflict resolution, be it through negotiation, mediation, arbitration or judicial settlement, is, at the same time, the result of adhering to the principle of the rule of law and an important contribution to further consolidating it. The European Union supports the use of mediation as a peaceful, efficient and cost-effective instrument of conflict prevention and resolution in line with the Secretary-General's report of April 2009 (S/2009/189). The European Union is in the process of strengthening and professionalizing its own mediation and mediation support capacity so as to use these tools more effectively. We appreciate the continuing cooperation with the Mediation Support Unit in that endeavour.

Women's underrepresentation in peace processes and the lack of gender expertise in negotiation and mediation teams seriously limit the extent to which women's experiences of conflict and consequent needs for justice and recovery are addressed in these processes. Resolutions 1325 (2000) and 1820 (2008) constitute an important framework for conflict settlement activities, which need to incorporate the principles contained therein at all stages of the process.

The European Union strongly supports the role of the International Court of Justice and calls on all States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.

The European Union is also a staunch supporter of the International Criminal Court. The Court has already proven its value in preventing and deterring those crimes that undermine the very essence of humanity. With the winding down of the ad hoc and special tribunals, the International Criminal Court will be at the centre of the international criminal justice system.

The Security Council can play an important role in ensuring that justice for the most serious crimes is brought to victims. Impunity should no longer be an option.

As regards sanction regimes, the European Union supports the principle of restrictive measures with clear objectives that are targeted at those persons or entities identified as responsible for the policies or actions that have prompted the decision to impose sanctions.

The introduction and implementation of restrictive measures must always be in accordance with international law and respect for human rights, and the European Union attaches great importance to the application of fair and clear procedures when designating persons and entities to be targeted. In this regard, the European Union welcomes the improvements introduced by resolution 1904 (2009). We welcome in particular the recent appointment of the Ombudsperson by the Secretary-General and express our hope that she will be able to take up her functions in the very near future.

For its part, following a number of recent judgements by the European Union General Court and the Court of Justice, the European Union has conducted a thorough review and consolidation of its implementation procedures. Those procedures will be kept under constant review and further adapted where necessary.

The President (*spoke in Spanish*): I now give the floor to the representative of Germany.

Mr. Wittig (Germany): I thank you, Mr. President, for scheduling this very important debate today and for inviting my country to participate.

Germany fully aligns itself with the statement made by the representative of the European Union.

Respect for the rule of law is a fundamental requirement for the maintenance of international peace, security and justice and remains at the very core of Germany's foreign policy. I would like to highlight three key issues with regard to the Security Council and the rule of law: first, the role of the International Court of Justice and other international courts; secondly, the rule of law and sanctions; and thirdly, the rule of law in peacekeeping and peacebuilding.

First, on the International Court of Justice, in a world of 192 States, differences do occur, but avoiding threats to international peace and security will be possible only if disputes can be addressed by peaceful means. For this purpose, the international community has developed a wide range of mechanisms. There are strictly judicial mechanisms, such as the International Court of Justice or — to name but one of the more specialized courts — the International Tribunal for the Law of the Sea. It is of course first and foremost up to States to make use of that system and to submit their disputes to these procedures.

As a first step towards advancing the rule of law, more States should accept the compulsory jurisdiction of the International Court of Justice and of other independent tribunals. International treaties could, as a rule, contain dispute settlement clauses that provide for an independent adjudication of disputes on their interpretation or application. The Security Council could further encourage States to make use of the existing judicial institutions, in particular the International Court of Justice.

Secondly, on the rule of law and sanctions, the rule of law also entails the obligation of international organizations to act in accordance with international law, internally and in their relations vis-à-vis Member States and the international community. One important example in this regard is respect for the rule of law in international sanctions regimes, in particular in the fight against international terrorism. Germany, together with a group of like-minded States, has been strongly advocating for the improvement of United Nations sanctions mechanisms to better respect rule of law principles.

We are very satisfied with the progress made, in particular through the establishment of a focal point to receive de-listing requests and the creation of the Office of the Ombudsperson. We are confident that this Office will render the de-listing procedure more effective, thereby enhancing the credibility of the sanctions regime as a whole.

Thirdly, on the rule of law in peacekeeping and peacebuilding, another field where the rule of law becomes extremely important to the work of the Security Council is in the establishment or re-establishment of the rule of law in societies emerging from years of armed violence.

Over the past few years, strengthening the rule of law has become a much more common feature of peacekeeping operations and peacebuilding efforts. Building the rule of law is accepted as a core peacekeeping task today, but this task poses a number of political and operational challenges. First, the often limited lifespan of a peacekeeping operation makes it difficult to truly establish a functioning rule of law system that can continue on its own once the mission has left. Secondly, the very different circumstances on the ground usually require a specific solution. A one-size-fits-all approach would not deliver sustainable results or allow for the necessary principle of local ownership.

The challenge for the United Nations, as well as for other international organizations and multilateral and bilateral donors, is how to extend rule of law support beyond the immediate peacekeeping phase so as to make reform sustainable. True rule of law support requires the consistent and long-term engagement of the international community as a whole. In my capacity as Chair of the Peacebuilding Commission, let me also say that adopting an earlier peacebuilding perspective in the Security Council would enable us to enhance the scope and to add value in peacekeeping mandates in the areas of the rule of law, demobilization, disarmament and reintegration, and security and justice sector reform.

In concluding, let me reiterate that my country will continue to be a staunch advocate of the rule of law. Our guiding principle here, as on all other issues, is that of a dialogue among equals. The rule of law will be accepted by all, both nationally and internationally, only if it is the result of a dialogue.

The President (*spoke in Spanish*): I now give the floor to the representative of Solomon Islands.

Mr. Beck (Solomon Islands): I thank you for your kind invitation, Mr. President, to my delegation to participate in this thematic debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. My delegation acknowledges the work of all, including the Secretariat, on the subject under discussion, and I would thank Mexico for the concept note (S/2010/322), which serves as a useful guide for our debate.

As pointed out in the concept note, the General Assembly plays an important role in advancing international law. That includes other United Nations treaty bodies. It is important to have closer relationships among the General Assembly, the treaty bodies and the Security Council, which we hope the current Security Council reform will comprehensively address. The Security Council has a defining role in the promotion and maintenance of international security, given that it is the primary United Nations organ responsible for the maintenance of international peace and security.

In discussing the questions raised in Mexico's concept paper, the promotion of international peace in post-conflict situations, the peaceful settlement of disputes, and the efficiency and credibility of sanctions are, in my delegation's view, secondary issues. The primary question to ask is whether instability in certain regions of the world is fed and fuelled by a lack of application of international law by the Council. Respect for international law is a must for all Members of the United Nations. The question that should be asked is what we do with countries that threaten international peace and security, continue to operate outside international law or allow that to happen in multilateral settings.

Such questions shake the credibility of multilateralism and have allowed the international system to shift into a vacuum. Failure to comply with international law has led to countries looking within themselves for security to protect themselves and their population, including empowering non-State actors to carry out State responsibilities.

For that reason, selective and partial actions by our multilateral system, including the Council, become controversial and cost both lives and money in addressing the symptoms rather than the causes of conflict. Secondly, the fact that our Peacebuilding Commission and post-conflict capacity-building mechanisms are not holistic in their outreach, as in the case of my country, which, in spite of being a country emerging from conflict, remains outside those mechanisms.

Solomon Islands was fortunate to have its regional neighbours come to its assistance three years after its ethnic conflict to re-establish the rule of law under a regional arrangement and to allow us to continue with our nation-building process. We are thankful to our neighbours, led by Australia and New Zealand. We remain eternally grateful.

We should be supporting multilateral and regional mechanisms that strengthen and consolidate peace and ensure that home-grown peace initiatives take root and generate lasting and sustainable peace. On the peaceful settlement of disputes, the advisory opinions of the International Court of Justice need to be respected and upheld. At the end of the day, for the collective good of the United Nations, those with absolute power need to take a stronger leadership role in ensuring that all principles of international law are adhered to. Only then will peace be possible.

Sanctions against selected countries burn bridges, build fences around targeted countries and are more harmful than constructive. We believe that the culture of dialogue rather than confrontation should be the norm, and we must have the patience for it. However, once sanctions are applied, they must be regularly monitored, reviewed and reported on to ensure that they remain a tool that serves the purpose of multilateralism.

Let me thank you, Mr. President, once again for the opportunity to participate in this debate. I hope that we can speak with one voice and act as a unit within the United Nations in the promotion of international peace and security in upholding the rule of law.

The President (*spoke in Spanish*): I now give the floor to the representative of Botswana.

Mr. Ntwaagae (Botswana): I thank you, Mr. President, for convening this open debate on a matter that is central to the mandate of the Security Council. We welcome the opportunity to participate in this debate, especially as it comes shortly after the Review Conference on the International Criminal Court, which was convened in Kampala some two weeks ago. The Council may be pleased to know that Botswana is strongly committed to ending impunity

and crimes against humanity and that we are one of the major supporters of the International Criminal Court in the discharge of its mandate. We derived guidance and inspiration from the concept note (S/2010/322) and we sincerely commend Mexico's presidency on that initiative.

Article 1 of the Charter of the United Nations recognizes that the collective measures employed by the United Nations in the prevention and removal of threats to peace should be underpinned by the principles of justice and international law. In their notable work *United Nations Ideas That Changed the World*, Thomas Weiss and others list four critical areas that have traditionally driven United Nations responses to the challenges of war and armed conflict. Foremost in that sequence is the notion of replacing war and conflict with the rule of law and negotiations. The other options include the use of preventive diplomacy to forestall conflicts, striking a balance between disarmament and development in order to effectively dismantle the structural causes of conflict, and, lastly, interposing international buffers with observers to keep peace or in peacebuilding and peacekeeping operations.

The creation of the United Nations and, with it, the adoption of the Charter and the creation of the principal organs, such as the Security Council, ushered in a new and genuine dispensation in which States could no longer resort to unilateral armed force in pursuit of their national interests without providing justification and legality for their actions. That is the legal framework that exists and deserves to be respected by all Member States, big and small, weak and powerful.

However, there is a minority of those whose attitude of taking advantage of the inadequacies of the international judicial system and circumventing the provisions of the Charter only succeeds in undermining the very legal frameworks that they helped to create.

In order to strengthen the rule of law, we should strive for the attainment of the highest ideals of the Charter by doing more to cultivate the norms and standards of international law. My delegation would be more worried if many of us did not endeavour to resist the temptation to undermine international law, which is contributing so immensely to the promotion of the rule of law and the development of international jurisprudence. We need not be fearful of the law to the extent that constructive enhancement of the various provisions of international legal instruments is replaced by a preoccupation with how best to unshackle the law.

It is clearly demonstrated that the sacrosanct respect and adherence to the rule of law at both the national and the international levels, as well as the maintenance of peace and security, are mutually reinforcing. Conversely, the collapse of national institutions charged with the mandate of enacting legislation and lack of respect for the rule of law and enforcement are often a catalyst for the escalation and sustenance of conflict, as well as the destruction of socio-economic infrastructure.

The United Nations is the only multilateral platform for the progressive development and codification of international law. It should therefore never tire in its noble efforts to strengthen the rule of law. It should rather continue to consistently apply the provisions of various conventions in order to safeguard the clarion call of the Charter "to save succeeding generations from the scourge of war" by mobilizing the collective will of the entire membership to maintain international peace and security.

The President (*spoke in Spanish*): I give the floor to the representative of Azerbaijan.

Mr. Mehdiyev (Azerbaijan): At the outset, I would like to thank you, Sir, for convening this very important open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security and your submission of a concept note on the topic (S/2010/322).

Azerbaijan reaffirms its commitment to an international order based on international law and the rule of law, and considers it essential to peaceful coexistence and cooperation among States.

Since the adoption of the 2005 World Summit Outcome (resolution 60/1) and the last open debate in the Security Council on the rule of law held in 2006 (see S/PV.5474), there have been important developments. A significant contribution has been made to the strengthening and promotion of an international order based on generally accepted legal norms and principles. In a number of situations, successful efforts have reduced tensions and ensured that peace processes moved forward.

At the same time, more should be done to address the major threats and challenges that continue to affect

the basic elements of the international legal order, undermine the national unity, territorial integrity and stability of States, and regenerate disregard and contempt for human rights. The heightened vulnerability of civilian populations during wartime — in particular forcibly displaced persons, refugees, women and children — brings an element of urgency to the imperative of restoration of the rule of law.

The peaceful settlement of disputes is one of the basic principles of international law enshrined in paragraph 3 of Article 2 of the Charter of the United Nations. Indeed, the commitment to resolving disputes through peaceful means and in accordance with international law is one of the cornerstones of the notion of the rule of law at the international level. The true value of this principle is to commit States to respecting each other's territorial integrity and political independence, refraining in their international relations from the threat or use of force, and resolving their disputes in conformity with international law.

It should be made clear at the same time that the reference to the principle of peaceful settlement of disputes must in no way impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.

In circumstances where the aggressor State has neglected its obligation to settle the international dispute by peaceful means and thereafter has illegally used force to acquire control over the territory of another State, insistence on the application of the principle of peaceful settlement of disputes will inevitably play into the hands of an aggressor, tend to entrench positions of control, reinforce perceptions of the centrality of military strength in international relations, and encourage impunity rather than contribute to the triumph of justice.

Undeniably, invasion or attack by the armed forces of a foreign State, military occupation and bombardment constitute armed attacks, triggering the right of self-defence in accordance with Article 51 of the Charter of the United Nations and customary international law. It is obvious that, in situations of protracted inter-State conflicts and long-continued unsuccessful negotiations, the victim of an armed attack, especially when it suffers from illegal occupation of its territory and consistent measures by the aggressor State to sustain the situation, is entitled to the right to self-defence and can resort to it as soon as it arrives at the firm conclusion that prolonging the negotiations is an exercise in futility and that political settlement is unattainable.

There should be better understanding that States acting in contravention of the Charter of the United Nation and international law, undermining the sovereignty and territorial integrity of States, violating international humanitarian law and human rights law and ignoring Security Council resolutions that explicitly condemn such behaviour, may forestall enforcement countermeasures only by putting a prompt end to their illegal acts and negotiating in good faith the prospects for peace, stability and cooperation. The fact that illegal situations continue because of political circumstances does not mean that they are thereby rendered legal or can go on forever. Law and justice are more important than force.

As the concept note rightly points out, respect for international humanitarian law is an essential component of the rule of law in conflict situations and plays a crucial role in the maintenance of international peace and security. However, a defining feature of most, if not all, conflicts is the failure of the parties to respect and ensure respect for their legal obligations to protect civilians and spare them from the effects of hostilities. As a consequence, civilians continue to suffer from inadequate protection in situations of armed conflict. Therefore, further efforts in this regard, in particular through insistent measures aimed at ensuring strict compliance by parties to armed conflict with their obligations under international humanitarian, human rights and refugee law, remain crucial and must constitute an absolute priority.

Particular consideration must be given to implications for the protection of civilians in armed conflict aggravated by population displacements and foreign occupations. The impact of conflict on housing, land and property in such situations requires a more consistent approach in order to ensure the safe and dignified return of those forced to leave their homes.

It is important that the recognition of the right to return, along with increased attention to its practical implementation and concrete measures aimed at overcoming obstacles preventing return, be applied by the international community with more systematic regularity. Ensuring the right to return constitutes a

categorical rejection of the gains of ethnic cleansing and offers important measures of justice to those displaced from their homes and land, thereby removing a source of possible future tension and conflict.

Integral to the existing challenges is the need to ensure accountability for violations of international humanitarian law and human rights law, both for individual perpetrators and for parties to conflict. In recent years, important steps have been taken for the protection and vindication of rights and the prevention and punishment of wrongs. The punishment of crimes with an international dimension and scope has demonstrated how effective international justice can be when there is political will to support it.

It is important to emphasize in this regard that ending impunity is essential not only for the purposes of identifying individual criminal responsibility for serious crimes, but also for ensuring sustainable peace, truth, reconciliation, the rights and interests of victims and the well-being of society at large.

In conclusion, I would like to reiterate, that in order to achieve the goals of the rule of law, we should uphold fundamental principles, adhere to the uniform application of international law, and promote the democratization of international relations.

The President (*spoke in Spanish*): I now give the floor to the representative of Canada.

Mr. McNee (Canada): I would like to congratulate and thank the delegation of Mexico for convening this important debate. I would like to focus on international humanitarian law and international criminal justice.

Canada has actively engaged with the international community to prevent crises, promote human rights and the rule of law, and respond to humanitarian emergencies. This reflects our values and responds directly to Canada's desire to promote peace, security, prosperity and well-being around the world. In this regard, we remain committed to encouraging respect for and implementation of international humanitarian law as agreed to in the Geneva Conventions.

And yet, despite the existence of multiple international legal instruments pertaining to the protection of civilians and the conduct of armed conflict, including customary law and Security Council resolutions, the past two decades have seen State and non-State actors alike shockingly and deliberately violate these core humanitarian principles. New challenges — whether attacks on aid workers or restrictions on access by civilians to aid — present an important challenge to our collective commitment to ensuring the effective implementation of international humanitarian law.

Indeed, I would argue that the Security Council has a critical role to play in calling for adherence to international humanitarian law. It can do this in several ways, including by better using its own field missions to monitor respect for international humanitarian law, by calling for better analysis in country reports provided to the Council, by encouraging fact-finding missions and by drawing on the range of tools at its disposal — such as prosecutions and targeted sanctions — when international humanitarian law is flouted. The Council also has a role to play in encouraging States to take steps to hold accountable those who would violate international human rights and humanitarian law and in ensuring that they are brought to justice. It is the duty of every State to exercise its criminal jurisdiction over those responsible for serious crimes.

The International Criminal Court is a crucial part of the international criminal justice system, but it is also a court of last resort. Where such crimes have occurred, States must ensure accountability through effective and genuine investigations and prosecutions at the national level. In this respect, Canada recognizes that strengthening domestic capacity to investigate and prosecute these crimes is essential to closing the impunity gap. The Council can play an important supporting role in this respect through, among other measures, its resolutions that call for United Nations peace operations to help build the rule of law.

(*spoke in French*)

Canada's continuing support for international criminal justice is based on our commitment to the rule of law and the principle that those who commit crimes must be held accountable. Within this paradigm, Canada has supported the work of the International Criminal Tribunals for Rwanda and the former Yugoslavia, the Special Court for Sierra Leone, the Special Tribunal for Lebanon, the Extraordinary Chambers in the Courts of Cambodia and, of course, the International Criminal Court. We also continue to invest in national justice and rule of law capacity-building in countries emerging from crisis. While great

strides have been made toward the rule of law at the international level, there remain areas in need of further progress.

In conclusion, Member States must be encouraged to comply with their international obligations, adhere to international treaties and incorporate international norms and standards into their domestic systems.

The President (*spoke in Spanish*): I now give the floor to the representative of Armenia.

Mr. Nazarian (Armenia): It appears that I am the last speaker on the list, so allow me to join all previous speakers in thanking you, Mr. President, for convening this debate, which serves as an engine to generate complex and open dialogue for examining the conceptual issue of the rule of law.

In recent years, the international community has increased its efforts to address the rule of law in conflict and post-conflict situations. Following the commitment to the rule of law in the 2005 World Summit Outcome (resolution 60/1), the rule of law was placed high on the United Nations and national agendas. A consensus emerged that the rule of law should be promoted at both the national and international levels and be based on the United Nations Charter, the norms of international law and the principles of good governance.

Armenia attaches utmost importance to the promotion of justice and the rule of law, as these values are indispensable for the maintenance of international and regional security and the protection of human rights. Moreover, the systematic breaches of the rule of law contribute to violations of these basic human rights and fundamental freedoms of peoples, which are among the major and immediate causes of regional conflicts.

The full and fair implementation of the norms and principles of human rights, such as the free exercise of democratic values, should be welcomed and encouraged by the United Nations Member States and should not be conditioned on the current status of the territory within which people choose to live democratically. Core United Nations values and principles cannot be compromised or ignored when it comes to people who live in conflict and post-conflict situations.

As we discuss the concept of the rule of law, we should emphasize the need for and importance of interaction with the representative authorities legitimately elected by the people of conflict regions during settlement negotiations. Armenia pursues an approach of dialogue, negotiations and mutual compromise, and strongly rejects the language of force, threats and militaristic rhetoric.

The notion of the rule of law represents a concept that is diametrically opposed to the rule by force or use of force. This principle stipulates a framework for peaceful conflict resolution and democratic governance. Strengthening the rule of law based on justice and security therefore requires a deeper commitment and a broader vision of the future.

Adherence to the principle of non-use of force or threat clearly and unequivocally declared by the parties concerned in conflict and post-conflict settings is another crucial factor for creating a environment conducive to building mutual trust and in achieving justice and security.

Armenia believes that the conflict resolution process must inevitably be based on the resolve and will of all concerned parties — first and foremost, of those who will be directly influenced and affected by the settlement. Our approach must also be built on the understanding that any conflict resolution should impartially and fully address the root causes of the conflict under discussion in order to prevent their renewal in the future, and should provide reliable and adequate security guaranties to the populations concerned, thus ensuring sustainable peace and development for the whole region.

The rule of law is a concept at the very heart of the stated mission of the United Nations and other international organizations. It is a well-known fact that, in an increasing number of its operations on the ground, the United Nations is calling on the services of relevant regional and subregional organizations, since in certain areas and in some cases these international actors are able to provide expertise and a better understanding of local peculiarities to complement that of the United Nations.

Since 1992, for example, the Organization for Security and Cooperation in Europe (OSCE) has been providing a forum for the settlement of a conflict in our subregion, and we believe that that organization has adequate capacity to maintain its lead in the

negotiation process. We are confident that continuous negotiations within the framework of the OSCE, which have been uninterrupted since their inception, serve as one of the major prerequisites for a just and lasting resolution of the issue.

While the Security Council has primary responsibility for the maintenance of international peace and security, other main bodies of the United Nations and relevant international organizations, including the Bretton Woods institutions, can play a significant role in contributing to the development and strengthening of international law, the rule of law and the maintenance of international peace and security.

The President (*spoke in Spanish*): There are no more speakers inscribed on my list.

After consultations among the members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council reaffirms its commitment to the Charter of the United Nations and international law, and to an international order based on the rule of law and international law, which is essential for peaceful coexistence and cooperation among States in addressing common challenges, thus contributing to the maintenance of international peace and security.

"The Security Council is committed to and actively supports the peaceful settlement of disputes and reiterates its call upon Member States to settle their disputes by peaceful means as set forth in Chapter VI of the Charter of the United Nations. The Council emphasizes the key role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work and calls upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.

"The Security Council calls upon States to resort also to other dispute settlement mechanisms, including international and regional courts and tribunals which offer States the possibility of settling their disputes peacefully, contributing thus to the prevention or settlement of conflict.

"The Security Council emphasizes the importance of the activities of the United Nations Secretary-General in promoting mediation and in the pacific settlement of disputes between States, recalls in this regard the Secretary-General's report on enhancing mediation and its support activities of 8 April 2009 (S/2009/189), and encourages the Secretary-General to increasingly and effectively use all the modalities and diplomatic tools at his disposal under the Charter for this purpose.

"The Security Council recognizes that respect for international humanitarian law is an essential component of the rule of law in conflict situations, reaffirms its conviction that the protection of the civilian population in armed conflict should be an important aspect of any comprehensive strategy to resolve conflict, and recalls in this regard resolution 1894 (2009).

"The Security Council further reiterates its call on all parties to armed conflict to respect international law applicable to the rights and protection of women and children, as well as displaced persons and humanitarian workers and other civilians who may have specific vulnerabilities, such as persons with disabilities and older persons.

"The Security Council reaffirms its strong opposition to impunity for serious violations of international humanitarian law and human rights law. The Security Council further emphasizes the responsibility of States to comply with their relevant obligations to end impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law in order to prevent violations, avoid their recurrence and seek sustainable peace, justice, truth and reconciliation.

"The Security Council notes that the fight against impunity for the most serious crimes of international concern has been strengthened through the work of the International Criminal Court, ad hoc and mixed tribunals, as well as specialized chambers in national tribunals, and takes note of the stocktaking of international criminal justice undertaken by the first Review Conference of the Rome Statute held in Kampala, Uganda, from 31 May to 11 June 2010. The

Council intends to continue forcefully to fight impunity and uphold accountability with appropriate means and draws attention to the full range of justice and reconciliation mechanisms to be considered, including national, international and mixed criminal courts and tribunals, truth and reconciliation commissions, as well as national reparation programmes for victims, institutional reforms and traditional dispute resolution mechanisms.

"The Security Council expresses its commitment to ensure that all United Nations efforts to restore peace and security themselves respect and promote the rule of law. The Council recognizes that sustainable peacebuilding requires an integrated approach, which strengthens coherence between political, security, development, human rights and rule of law activities. In this regard, the Council reiterates the urgency of improving United Nations peacebuilding efforts and achieving a coordinated United Nations approach in the field among all parts of the United Nations system, including in ensuring capacity-building support to assist national authorities to uphold the rule of law especially after the end of United Nations peacekeeping and other relevant missions.

"The Security Council considers sanctions an important tool in the maintenance and restoration of international peace and security. The Council reiterates the need to ensure that sanctions are carefully targeted in support of clear objectives and designed carefully so as to minimize possible adverse consequences and are implemented by Member States. The Council remains committed to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions. In this context, the Council recalls the adoption of resolutions 1822 (2008) and 1904 (2009), including the appointment of an Ombudsperson and other procedural improvements in the Al-Qaida and Taliban sanctions regime.

"The Security Council welcomes the establishment of the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit, and urges greater efforts by the Group to ensure a coordinated and coherent response by the United Nations system to issues on the Council's agenda related to the rule of law.

"The Security Council requests the Secretary-General to provide a follow-up report within 12 months to take stock of the progress made in respect of the implementation of the recommendations contained in the 2004 report of the Secretary-General (S/2004/616), and to consider in this context further steps with regard to the promotion of the rule of law in conflict and post-conflict situations."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2010/11.

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5.35 p.m.